

SUPREME COURT OF WISCONSIN
OFFICE OF LAWYER REGULATION

Public Reprimand With Consent

2006-OLR-4

Michael M. Rajek,
Attorney at Law

Attorney Michael M. Rajek, 57, currently practices in Eau Claire, Wisconsin.

Sometime during the summer of 2003, Atty. Rajek learned that he was being investigated by the United States Attorney's Office for the Western District of Wisconsin for potential illegal structuring of cash transactions as proscribed in Title 31 of the United States Code, Section 5324. Under that section, the structuring of transactions to avoid the issuance of a Currency Transaction Report (CTR) is criminal in nature.

According to Atty. Rajek, in the late 1990's and into early 2000, he developed cash flow problems and as a result, fell behind on the payment of income tax and also was in debt to several other creditors. The total amount of tax, penalty, and interest owed by Atty. Rajek to the IRS eventually grew to just over \$100,000.

Atty. Rajek asserted he had accumulated a moderate cash reserve over the years and during the summer of 2000 he wished to purchase a car to replace a car he had been leasing. According to Atty. Rajek, given his financial situation, it was impossible for him to obtain a car loan so he decided to use his cash reserve to purchase the car. During that same time period, Atty. Rajek was also purportedly planning to refinance his house to enable him to discharge all of his obligations to the IRS and other creditors.

Atty. Rajek asserted he did not want the IRS and other creditors to know that he had accumulated the cash reserve, so before he purchased the car, he drove to a number of different branches of the same bank and deposited various amounts of cash in increments under \$10,000 into his personal checking account. During July, 2000, the amount of cash deposited by Atty. Rajek into his checking account totaled approximately \$27,500. Atty. Rajek asserted he then purchased the car with a portion of this money.

Atty. Rajek also asserted that sometime during September, 2000, after accumulating additional income from his practice, he took that additional income and what remained of his cash reserve, and again deposited various amounts of cash in increments under \$10,000 at different branches of the same bank. During September, 2000, the amount of cash deposited by Atty. Rajek totaled approximately \$42,000. According to Atty. Rajek, he utilized this money to refinance his home, which then allowed him to pay off the IRS and other creditors.

Atty. Rajek acknowledged that he deposited funds at three branches of the same bank in amounts under \$10,000 in order to prevent third parties from taking notice of the fact that he possessed the cash. Atty. Rajek asserted he was concerned that if he deposited a large amount of cash at one bank location, it might become a matter of public discussion.

Atty. Rajek also acknowledged he was aware that banks are required to issue a CTR whenever a bank engages in a cash transaction that exceeds \$10,000. Atty. Rajek admitted he was concerned that if he made one large cash deposit it would generate a CTR that would then alert the IRS to his possession of the funds, so he structured the cash deposits so as to fall under the \$10,000 limit to avoid issuance of the CTR. Atty. Rajek asserted his intent in structuring the cash transactions was to allow himself time to purchase the car and also to allow him some time

to restructure and refinance his financial affairs so that he could pay off his creditors, including the IRS.

Atty. Rajek cooperated with the investigation by the United States' Attorney's Office. In exchange for agreeing to make full disclosure to the Office of Lawyer Regulation (OLR) and that resolution of the OLR matter would include, at a minimum, that Atty. Rajek cease the practice of law for not less than two months, the United States' Attorney's Office agreed to close its file without issuing any formal charges against Atty. Rajek. Lawyer discipline precedent supports issuance of a public reprimand. Atty. Rajek's agreement to cease law practice is a matter between Rajek and the United States Attorney.

On March 17, 2004, Atty. Rajek self-reported this matter to OLR.

By intentionally structuring various cash transactions during the summer and fall of 2000, so that each transaction involved an amount below \$10,000 so as to avoid the issuance of a Currency Transaction Report that would alert the IRS and other creditors to his possession of these funds, as proscribed in Title 31 of the United States Code, Section 5324, Atty. Rajek violated SCR 20:8.4(b) and SCR 20:8.4(c).

In accordance with SCR 22.09(3), Attorney Michael M. Rajek is hereby publicly reprimanded.

Dated this 21st day of March, 2006.

SUPREME COURT OF WISCONSIN

/s/ Gene B. Radcliffe

Referee Gene B. Radcliffe